(LVth YEAR.) THE (No. 2791.)

MARYLAND GAZETTE.

THURSDAY, JULY 10, 1800.

To the FREEMEN of the Fifth District of MARYLAND.

[*Continued from our laſt.*]

FELLOW-CITIZENS,

'THE argument then drawn from the common law on the ground of its being adopted or recognized by the conſtitution, being inapplicable to the ſedition act, let us proceed to examine the other arguments which have been founded on the conſtitution.'

'The part of the conſtitution which ſeems moſt to be recurred to, in defence of the "ſedition act," is the laſt clauſe of the 8th ſection of the firſt article empowering congreſs "to make all laws which ſhall be neceſſary and proper for carrying into execution the foregoing powers, and all other powers veſted by this conſtitution in the government of the United States, or in any department or officer thereof."

The plain import of this clauſe is, that congreſs ſhall have all the incidental or inſtrumental powers, neceſſary and proper for carrying into execution all the expreſs powers; whether they be veſted in the government of the United States, more collectively, or in the ſeveral departments, or officers thereof. It is not a grant of new powers to congreſs, but merely a declaration, for the removal of all uncertainty, that the means of carrying into execution, thoſe otherwiſe granted, are included in the grant.

Whenever, therefore, a queſtion ariſes concerning the conſtitutionality of a particular power; the firſt queſtion is, whether the power be expreſſed in the conſtitution. If it be, the queſtion is decided. If it be not expreſſed; the next inquiry muſt be; whether it is properly an incident to an expreſs power, and neceſſary to its execution. If it be, it may be exerciſed by congreſs. If it be not; congreſs cannot exerciſe it.

Let the queſtion be aſked, then, whether the power over the preſs exerciſed in the "ſedition act" be found among the powers expreſsly veſted in the congreſs? This is not pretended.

Is there any expreſs power, for executing which, it is neceſſary and proper power?

The power which has been ſelected, as leaſt remote, in anſwer to this queſtion, is that of "ſuppreſſing inſurrections;" which is ſaid to imply a power to *prevent* inſurrections, by puniſhing whatever may *lead* or *tend* to them. But it ſurely cannot, with the leaſt plauſibility, be ſaid, that a regulation of the preſs, and a puniſhment of libels, are exerciſes of a power to ſuppreſs inſurrections. The moſt that could be ſaid, would be, that the puniſhment of libels, if it had the tendency aſcribed to it, might prevent the occaſion, of paſſing or executing laws, neceſſary and proper for the ſuppreſſion of inſurrections.

Has the federal government, then, no power to prevent, as well as puniſh reſiſtance to the laws?

They have the power which the conſtitution deemed moſt proper in their hands for the purpoſe. The congreſs has power, before it happens, to paſs laws for puniſhing it; and the executive and judiciary have power to enforce thoſe laws when it does happen.

It muſt be recollected by many, and could be ſhewn to the ſatisfaction of all, that the conſtruction here put on the terms "neceſſary and proper," is preciſely the conſtruction which prevailed during the diſcuſſions and ratifications of the conſtitution. It may be added, and cannot too often be repeated, that it is a conſtruction abſolutely neceſſary to maintain their conſiſtency with the peculiar character of the government, as poſſeſſed of particular and defined powers only; not of the general and indefinite powers veſted in ordinary governments. For if the power to *ſuppreſs inſurrections*, includes a power to *puniſh libels*; or if the power to *puniſh*, includes a power to *prevent*, by all the means that may have that *tendency*; ſuch is the relation and influence among the moſt remote ſubjects of legiſlation, that a power over a very few, would carry with it a power over all. And it muſt be wholly immaterial, whether unlimitted powers be exerciſed under the name of unlimitted powers, or be exerciſed under the name of unlimtted means of carrying into execution, limitted powers.

II. The next point which is required to be proved, is, that the power over the preſs exerciſed by the ſedition act, is poſitively forbidden by one of the amendments to the conſtitution.

The amendment ſtands in theſe words—Congreſs ſhall make no law reſpecting an eſtabliſhment of religion, or prohibiting the free exerciſe thereof, *or abridging the freedom of ſpeech or* of the preſs; or the right of the people peaceably to aſſemble, and to petition the government for a redreſs of grievances."

In the attempts to vindicate the "ſedition act," it has been contended, 1. that the "freedom of the preſs" is to be determined by the meaning of theſe terms in the common law. 2. That the article ſuppoſes the power over the preſs to be in congreſs, and prohibits them only from *abridging* the *freedom* allowed to it by the common law.

Although it will be ſhewn, in examining the ſecond of theſe poſitions, that the amendment is a denial to congreſs of all power over the preſs, it may not be uſeleſs to make the following obſervations on the firſt of them.

It is deemed a ſound opinion, that the ſedition act, in its definition of ſome of the crimes created, is an abridgment of the freedom of publication, recognized by principles of the common law in England.

The freedom of the preſs, under the common law, is, in the defences of the ſedition act, made to conſiſt in an exemption from all previous reſtraint on printed publications, by perſons authoriſed to inſpect and prohibit them. It appears that this idea of the freedom of the preſs, can never be admitted to be the American idea of it: ſince a law inflicting penalties on printed publications, would have a ſimilar effect with a law authoriſing a previous reſtraint on them. It would ſeem a mockery to ſay, that no law ſhould be paſſed, preventing publications from being made, but that laws might be paſſed for puniſhing them in caſe they ſhould be made.

The eſſential difference between the Britiſh government, and the American conſtitutions, will place this ſubject in the cleareſt light.

In the Britiſh government, the danger of encroachments on the rights of the people, is underſtood to be confined to the executive magiſtrate. The repreſentatives of the people in the legiſlature, are not only exempt themſelves from diſtruſt, but are conſidered as ſufficient guardians of the rights of their conſtituents againſt the danger from the executive. Hence it is a principle, that the parliament is unlimitted in its power; or in their own language, is omnipotent. Hence too all the ramparts for protecting the rights of the people, ſuch as their *magna charta*, their bill of rights, &c. are not reared againſt the parliament, but againſt the royal prerogative. They are merely legiſlative precautions, againſt executive uſurpations. Under ſuch a government as this, an exemption of the preſs from previous reſtraint by licencers appointed by the king, is all the freedom that can be ſecured to it.

In the United States the caſe is altogether different. The people, not the government, poſſeſſes the abſolute ſovereignty. The legiſlature, no leſs than the executive, is under limitations of power. Encroachments are regarded as poſſible from the one, as well as from the other. Hence in the United States, the great and eſſential rights of the people are ſecured againſt legiſlative as well as executive ambition. They are ſecured not by laws paramount to prerogative; but by conſtitutions paramount to laws. This ſecurity of the freedom of the preſs requires, that it ſhould be exempt, not only from previous reſtraint by the executive, as in Great-Britain; but from legiſlative reſtraint alſo; and this exemption, to be effectual, muſt be an exemption, not only from the previous inſpection of licences, but from the ſubſequent penalty of laws.

The ſtate of the preſs, therefore, under the common law, can not in this point of view be the ſtandard of its freedom in the United States.

But there is another view, under which it may be neceſſary to conſider this ſubject. It may be alleged, that although the ſecurity for the freedom of the preſs be different in Great-Britain and in this country; being a legal ſecurity only in the former, and a conſtitutional ſecurity in the latter; and although there may be a further difference, in an extenſion of the freedom of the preſs here, beyond an exemption from previous reſtraint, to an exemption from ſubſequent penalties alſo; yet that the actual legal freedom of the preſs, under the common law, muſt determine the degree of freedom, which is meant by the terms, and which is conſtitutionally ſecured againſt both proviſions and ſubſequent reſtraints.

The nature of governments elective, limitted and reſponſible, in all their branches, may well be ſuppoſed to require a greater freedom of animadverſion, than might be tolerated by the genius of ſuch a government as that of Great-Britain. In the latter, it is a maxim, that the king, an hereditary, not a reſponſible magiſtrate, can do no wrong; and that the legiſlature, which in two thirds of its compoſition, is alſo hereditary, not reſponſible, can do what it pleaſes. In the United States, the executive magiſtrates are not held to be infallible, nor the legiſlatures to be omnipotent; and both being elective, are both reſponſible. Is it not natural and neceſſary under ſuch different circumſtances, that a different degree of freedom, in the uſe of the preſs, ſhould be contemplated?

Is not ſuch an inference favoured by what is obſervable in Great-Britian itſelf? notwithſtanding the general doctrine of the common law, on the ſubject of the preſs, and the occaſional puniſhment of thoſe who uſe it with a freedom offenſive to the government; it is well known, that with reſpect to the reſponſible members of the government, where the reaſons operating here, become applicable to theſe, the freedom exerciſed by the preſs, and protected by the public opinion, far exceeds the limits preſcribed by the ordinary rules of law. The miniſtry, who are reſponſible to impeachment, are at all times animadverted on by the preſs with peculiar freedom; and during the elections for the houſe of commons, the other reſponſible part of the government, the preſs is employed with as little reſerve towards the candidates.

The practice in America muſt be entitled to much more reſpect. In every ſtate, probably, in the union, the preſs has excited a freedom in canvaſſing the merits and meaſures of public men, of every deſcription, which has not been confined to the ſtrict limits of the common law.—On this footing the freedom of the preſs has ſtood; on this footing it yet ſtands. And it will not be a breach, either of truth or of candour, to ſay, that no perſons or preſſes are more in the habit of unreſtrained animadverſions on the proceedings and functionaries of the ſtate governments, than the perſons and preſſes moſt zealous in vindicating the act of congreſs for puniſhing ſimilar animadverſions on the government of the United States.

The laſt remark will not be underſtood, as claiming for the ſtate governments, an immunity greater than they have heretofore enjoyed. Some degree of abuſe is inſeparable from the proper uſe of any thing; and in no inſtance is this more true, than in that of the preſs. It has accordingly been decided by the practice of the ſtates, that it is better to leave a few of its noxious branches to their luxuriant growth, than by pruning them away, to injure the vigour of thoſe yielding their proper fruits. And can the wiſdom of this policy be doubted by any who reflect, that to the preſs alone, chequered as it is with abuſes, the world is indebted for all the triumphs which have been gained by reaſon and humanity, over error and oppreſſion; who reflect that to the ſame beneficent ſource, the United States owe much of the lights which conducted them to the rank of a free and independent nation; and which have improved their political ſyſtem, into a ſhape ſo auſpicious to their happineſs. Had "ſedition acts" forbidding every publication that might bring the conſtituted agents into contempt or diſrepute, or that might excite the hatred of the people againſt the authors of unjuſt or pernicious meaſures, been uniformly enforced againſt the preſs; might not the United States have been languiſhing at this day, under the infirmities of a ſickly confederation? Might they not poſſibly be miſerable colonies groaning under a foreign yoke?

To theſe obſervations one fact will be added, which demonſtrates that the common law cannot be admitted, as the *univerſal* expoſitor of American terms, which may be the ſame with thoſe contained in that law. The freedom of conſcience, and of religion, are found in the ſame inſtruments, which aſſert the freedom of the preſs. It will never be admitted, that the meaning of the former, in the common law of England, is to limit their meaning in the United States.

Whatever weight may be allowed to theſe conſiderations, it is not intended, however, by any means, to reſt the queſtion on them. It is contended that the article of amendment, inſtead of ſuppoſing in congreſs, a power that might be exerciſed over the preſs, provided its freedom was not abridged, was meant as a poſitive denial to congreſs, of any power whatever on the ſubject.

To demonſtrate that this was the true object of the article, it will be ſufficient to recal the circumſtances which led to it, and to refer to the explanation accompanying the article.

When the conſtitution was under the diſcuſſions which preceded its ratification, it is well known, that great apprehenſions were expreſſed by many, leſt the omiſſion of ſome poſitive exception from the powers delegated, of certain rights, and of the freedom of the preſs particularly, might expoſe them to the danger of being drawn by conſtruction within ſome of the powers veſted in congreſs; more eſpecially of the power to make all laws neceſſary and proper, for carrying their other powers into execution. In reply to this objection, it was invariably urged to be a fundamendal and characteriſtic prineiple of the conſtitution; that all powers not given by it, were reſerved; that no powers were given beyond thoſe enumerated in the conſtitution, and ſuch as were fairly incident to them; that the power over the rights in queſtion, and particularly over the preſs, was neither among the enumerated powers, nor incident to any of them; and conſequently that an exerciſe of any ſuch power, would be a maniſeſt uſurpation. It is painful to remark, how much the arguments now employed in behalf of the ſedition act, are at variance with the reaſoning which then juſtified the conſtitution, and invited its ratification.

From this poſture of the ſubject, reſulted the intereſting queſtion in ſo many of the conventions, whether the doubts and dangers aſcribed to the conſtitution, ſhould be removed by amendments, previous to the ratification, or be poſtponed, in confidence that as far as they might be proper, they could be introduced in the form provided by the conſtitution. The latter courſe was adopted; and in moſt of the ſtates,

the ratifications were followed by propositions and instructions for rendering the constitution more explicit, and more safe to the rights, not meant to be delegated by it. Among those rights, the freedom of the press, in most instances, is particularly and emphatically mentioned. In pursuance of the wishes thus expressed, the first congress that assembled under the constitution, proposed certain amendments which have since, by the necessary ratifications, been made part of it; among which amendments is the article containing, among other prohibitions on the congress, an express declaration that they should make no law abridging the freedom of the press.

Without tracing further the evidence on this subject, it would seem scarcely possible to doubt, that no power whatever over the press, was supposed to be delegated by the constitution, as it originally stood; and that the amendment was intended as a positive and absolute reservation of it.

But the evidence is still stronger. The proposition of amendments made by congress is introduced in the following terms: "*The conventions of a number of the states having at the time of their adopting the constitution, expressed a desire, in order to prevent misconstructions or abuse of its powers, that further declaratory and restrictive clauses should be added; and as extending the ground of public confidence in the government, will best ensure the beneficent ends of its institution.*

Here is the most satisfactory and authentic proof, that the several amendments proposed, were to be considered as either *declaratory* or *restrictive*, and whether the one or the other, as corresponding with the desire expressed by a number of the states, and as extending the ground of public confidence in the government.

Under any other construction of the amendment relating to the press, than that it declared the press to be wholly exempt from the power of congress, the amendment could neither be said to correspond with the desire expressed by a number of states, nor be calculated to extend the ground of public confidence in the government.

Nay more; the construction employed to justify the "sedition act," would exhibit a phenomenon, without a parallel in the political world. It would exhibit a number of respectable states, as *denying first that any power over the press was delegated by the constitution*; as proposing next, that an amendment to it, should *explicitly declare that no such power was granted*; and finally, as concurring in an amendment *actually recognizing or delegating such a power.*

Is then the federal government, it will be asked, destitute of every authority for restraining the licentiousness of the press, and for shielding itself against the libellous attacks which may be made on those who administer it?

The constitution alone can answer this question. If no such power be expressly delegated, and it be not both necessary and proper to carry into execution an express power; above all, if it be expressly forbidden by a declaratory amendment to the constitution, the answer must be, that the federal government is destitute of all such authority.

And might it not be asked in turn, whether it is not more probable, under all the circumstances which have been reviewed, that the authority should be with held by the constitution, than that it should be left to a vague and violent construction; whilst so much pains were bestowed in enumerating other powers, and so many less important powers are included in the enumeration.

Might it not be likewise asked, whether the anxious circumspection which dictated so many *peculiar* limitations on the general authority, would be unlikely to exempt the press altogether from that authority? The peculiar magnitude of some of the powers necessarily committed to the federal government; the peculiar duration required for the functions of some of its departments; the peculiar distance of the seat of its proceedings from the great body of its constituents; and the peculiar difficulty of circulating an adequate knowledge of them through any other channel; will not these considerations, some or other of which produced other exceptions from the powers of ordinary governments, all together, account for the policy of binding the head of the federal government, from touching the channel which alone can give efficacy to its responsibility to its constituents; and of leaving those who administer it, to a remedy for their injured reputations, under the same laws, and in the same tribunals, which protect their lives, their liberties and their properties?

But the question does not turn either on the wisdom of the constitution, or on the policy which gave rise to its particular organization. It turns on the actual meaning of the instrument; by which it has appeared, that a power over the press is clearly excluded, from the number of powers delegated to the federal government.

III. Well may it be said that the unconstitutional power exercised over the press by the sedition act ought *more than any other to produce universal alarm*; because it is levelled against that right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed the only effectual guardian of every other right.

On the second section of the sedition act the following observations present themselves.

1. The constitution supposes that the president, the congress and each of its houses, may not discharge their trusts, either from defect of judgment, or other cause. Hence, they are all made responsible to their constituents at the returning periods of election; and the president, who is singly intrusted with very great powers, is as a further guard, subjected to an intermediate impeachment.

2. Should it happen, as the constitution supposes it may happen, that either of these branches of the government, may not have duly discharged its trust; it is natural and proper, that according to the cause and degree of their faults, they should be brought into contempt or disrepute, and incur the hatred of the people.

3. Whether it has in any case, happened, that the proceedings of either, or all of those branches, evinces such a violation of duty as to justify a contempt, a disrepute or hatred among the people, can only be determined by a free examination thereof, and a free communication among the people thereon.

4 Whenever it may have actually happened, that proceedings of this sort are chargeable on all or either of the branches of the government, it is the duty as well as right of intelligent and faithful citizens, to discuss and promulge them freely as well to control them by the censorship of the public opinion, as to promote a remedy according to the rules of the constitution. And it cannot be avoided, that those who are to apply the remedy must feel in some degree, a contempt or hatred against the transgressing party.

5. As the act was passed on July 14, 1798, and is to be in force until March 3, 1801, it was of course, that during its continuance, two elections of the entire house of representatives, an election of two thirds of the senate, and an election of a president were to take place.

6. That consequently, during all the elections, intended by the constitution to preserve the purity, or to purge the faults of the administration, the great remedial rights of the people were to be exercised, and the responsibility of their public agents to be screened under the penalties of this act.

May it not be asked of every intelligent friend to the liberties of his country, whether the powers exercised in such an act as this, ought not to *produce great and universal alarm*? Whether a rigid execution of such an act, in time past, would not have repressed that information and communication among the people, which is indispensable to the just exercise of their electoral rights? and whether such an act, if made perpetual, and enforced with rigour, would not in time to come, either destroy our free system of government, or prepare a convulsion that might prove equally fatal to it?

In answer to such questions, it has been pleaded that the writings and publications forbidden by the act, are those only which are false and malicious, and intended to defame; and merit is claimed for the privilege allowed to authors to justify, by proving the truth of their publications, and for the limitations to which the sentence of fine and imprisonment is subjected.

To those who concurred in the act, under the extraordinary belief, that the option lay between the passing of such an act, and leaving in force the common law of libels, which punishes truth equally with falsehood, and submits the fine and imprisonments to the indefinite discretion of the court, the merit of good intentions ought surely not to be refused. A like merit may perhaps be due for the discontinuance of the *corporal punishment* which the common law also leaves to the discretion of the court.—This merit of *intention*, however, would have been greater, if the several instigators had not been limited to so short a period; and the apparent inconsistency would have been avoided, between justifying the act at one time, by contrasting it with the rigors of the common law, otherwise in force; and at another time by appealing to the nature of the crisis, as requiring the temporary rigour executed by the law.

But whatever may have been the meritorious intentions of all or any who contributed to the sedition act; a very few reflections will prove, that its baneful tendency is little diminished by the privilege of giving in evidence the truth of the matter contained in political writings.

In the first place where simple and naked *facts* alone are in question, there is sufficient difficulty in some cases, and sufficient trouble and vexation in all, of meeting a prosecution from the government, with the full and formal proof, necessary in a court of law.

But, in the next place, it must be obvious to the plainest minds, that opinions, and inferences, and conjectural observations, are not only in many cases inseparable from the facts, but may often be more the objects of the prosecution than the facts themselves; or may even be altogether abstracted from particular facts; and that opinions and inferences, and conjectural observations, cannot be subjects of that kind of proof which appertains to facts, before a court of law.

Again, it is no less obvious, that the *intent* to defame or bring into contempt or disrepute, or hatred, which is made a condition of the offence created by the act; cannot prevent its pernicious influence, on the freedom of the press. For omitting the inquiry how far the malice of the intent, is an inference of the law from the mere publication; it is manifestly impossible to punish the intent to bring those who administer the government into disrepute or contempt, without striking at the right of freely discussing public characters and measures: because those who engage in such discussions, must expect and *intend* to excite these unfavourable sentiments, so far as they may be thought to be deserved. To prohibit therefore the intent to excite those unfavourable sentiments against those who administer the government, is equivalent to a prohibition of the actual excitement of them; and to prohibit the actual excitement of them, is equivalent to a prohibiton of discussion having that tendency and effect; which, again, is equivalent to a protection of those who administer the government, if they should at any time deserve the contempt or hatred of the people, against being exposed to it, by free animadversions on their characters and conduct. Nor can there be a doubt, if those in public trust be shielded by penal laws from such strictures of the press, as may expose them to contempt or disrepute, or hatred, where they may deserve it, that in exact proportion as they may deserve to be exposed, will be the certainty and criminality of the intent to expose them, and the vigilence of prosecution and punishing it; nor a doubt, that a government thus intrenched in penal statutes, against the just and natural effects of a culpable administration, will easily evade the responsibility, which is essential to the faithful discharge of its duty.

Let it be recollected, lastly, that the right of electing members of the government, constitutes more particularly the essence of a free and responsible government. The value and efficacy of this right depends on the knowledge of the comparative merits and demerits of the candidates for public trust; and on the equal freedom, consequently, of examining and discussing these merits and demerits of the candidates respectively. It has been seen that a number of important elections will take place whilst the act is in force; although it should not be continued beyond the term to which it is limited, should there happen, then, as is extremely probable in relation to some or other of the branches of the government, to be competitions between those who are, and those who are not members of the government; what will be the situations of the competitions? Not equal; because the characters of the former will be covered by the "sedition act" from animadversions exposing them to disrepute among the people; whilst the latter may be exposed to the contempt and hatred of the people without a violation of the act. What will be the situation of the people? Not free; because they will be compelled to make their election between competitors, whose pretensions they are not permitted by the act, equally to examine, to discuss, and to ascertain. And from both these situations, will not those in power derive an undue advantage for continuing themselves in it; which by impairing the right of election, endangers the blessings of the government founded on it.

Speaking of the *liberty of the press*, and *the liberty of conscience*, he proceeds to observe, "that the precedent established by the violation of the former of these rights, may be fatal to the latter, appears to be demonstrable, by a comparison of the grounds on which they respectively rest; and from the scope of reasoning, by which the power over the former has been vindicated.

First. Both of these rights, the liberty of conscience, and of the press, rest equally on the original ground of not being delegated by the constitution, and consequently with-held from the government. Any construction therefore, that would attack this original security for the one must have the like effect on the other.

Secondly. They are both equally secured by the supplement to the constitution; being both included in the same amendment, made at the same time, and by the same authority. Any construction or argument then which would turn the amendment into a grant or acknowledgment of power with respect to the press might be equally applied to the freedom of religion.

Thirdly. If it be admitted that the extent of the freedom of the press secured by the amendment is to be measured by the common law on this subject; the same authority may be resorted to for the standard which is to fix the extent of the "free exercise of religion." It cannot be necessary to say what this standard would be; whether the common law be taken solely as the unwritten, or as varied by the written, law of England.

Fourthly. If the words and phrases in the amendment, are to be considered as chosen with a studied discrimination, which yields an argument for a power over the press, under the limitation that its freedom be not abridged; the same argument results from the same consideration, for a power over the exercise of religion, under the limitation that its freedom be not prohibited.

For if congress may regulate the freedom of the press, provided they do not abridge it; because it is said only, "they shall not abridge it;" and is not said, "they shall make no law respecting it:" the analogy of reasoning is conclusive, that congress may *regulate*, and even *abridge* the free exercise of religion; provided they do not *prohibit* it, because it is said only "they shall not prohibit it;" and is *not* said, "they shall make no law *regulating*, or no law *abridging* it"—.

I have extracted freely from these able and ingenious arguments because I consider them all powerful to establish these positions:

1. That the exposition of the general phrases in the constitution, contended for by congress in their justification of the alien and sedition acts, will tend by degrees to consolidate the states into one sovereignty.

2. That the obvious tendency, and inevitable result of a consolidation of the states into one sovereignty, would be to transform the republican system of the United States into a monarchy.

3. That the first of these acts, exercises a power not delegated to the federal government, and which by uniting legislative and judicial powers to those of executive, subverts the general principles of a free government, as well as the particular organization, and positive provisions of the federal constitution.

4. That the other of these acts exercises in like manner a power not delegated by the constitution, but on the contrary expressly and positively forbidden by one of the amendments thereto;—a power, which

more than any other, ought to produce universal alarm; because it is levelled against that right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed, the only effectual guardian of every other right.

The reasoning is such as might be expected from an exertion of pre-eminent talents by a virtuous citizen in the great cause of the people. Whoever will attentively read it throughout, and shall not be convinced of these truths, would not receive conviction *though one arose from the dead.*

Satisfactory as these observations must be to every dispassionate mind, I shall not omit to subjoin the opinions of our late envoys to France. In their letter to the minister of foreign relations there, they say "the genius of the constitution and the opinions of the people of the United States, cannot be overturned by those who administer the government. Among those principles deemed sacred in America; among those sacred rights considered as forming the bulwark of their liberty, which the government contemplates with *awful reverence*, and would approach only with the most *cautious circumspection*, there is none, of which the importance is more duly impressed on the public mind, than the liberty of the press. That this liberty is often carried to excess, that it has sometimes degenerated to licentiousness, is seen and lamented; but the remedy has not yet been discovered. Perhaps it is an evil inseparable from the good with which it is allied: perhaps it is a shoot which cannot be stripped from the stalk, *without wounding vitally the plant from which it is torn.*"

If this act had been warranted by the constitution, it was unnecessary and impolitic. In every nation where the press is attacked, liberty is in danger. If congress are permitted to *regulate* (and it is admitted they cannot *abridge*) the liberty of the press, it will soon be destroyed, and whenever that falls, our liberty will fall with it. It is unnecessary to add that the president gave his sanction to these acts. Without his approbation and signature they would not have been enacted. When the sedition act was delivered to him for his consideration, if, instead of passing, he had rejected it, and assigned such reasons as must have occurred to a mind enlightened as his undoubtedly is, he would have endeared himself to a grateful people.

G. DUVALL.

[To be continued]

SALEM, June 26.

Last evening arrived at Beverly, the schooner Nancy, captain Obear, in 56 days from Corunna. Soon after leaving port, was boarded by three French frigates and a brig of 16 nine-pounders, at different times, all shortly out from Bourdeaux—and by them all politely treated, and permitted to proceed—all four of them having positive orders not to molest any Americans whose papers were regular. Saw on Sunday last, a schooner and a ship standing to the eastward.

The consul at Corunna informed captain Obear, that the differences between America and France would be accommodated very soon—and that the privateers had strict orders not to molest any Americans. We sincerely wish these orders might be enforced in that den of devils—Guadaloupe.

Captain Obear on his outward bound passage, by shipping a sea, carried away his foremast and bowsprit, and was kindly relieved by the United States frigate, captain Barry,

BOSTON, June 27.

THE JUNO.

The large armed merchant ship of this name, which sailed from this port a few days since for Leghorn, has been detained by the British frigate Cleopatra, and ordered to Halifax. Her cargo is very valuable; and we have no doubt, that in a court of justice, the most satisfactory evidence could be given, that it is wholly American property. Upon the presumption, that she will have a candid and impartial trial, we flatter ourselves we shall, in a few weeks, have the pleasure of announcing the release of this vessel.

The ship Juno and the principal part of the cargo belong to Messrs. Matthew Bridge and Thomas K. Jones, gentlemen, who, wherever they are known, are respected for their industry and integrity. They are indebted solely to unremitted and honest exertions for the property they possess.

June 28.

The pretence for detaining the Juno is said to be, that she was employed in conveying the produce of a Spanish colony to the mother country; being bound to Malaga, and having Spanish sugars on board. It is said Pellew informed the supercargo that had she been bound to Leghorn, which we learn, was the ulterior object of the voyage, she would not have been detained.

The snow Fair Eliza, and sloop Juliet, are libelled in Rhode-Island, for being employed in the slave trade.

The Deux Anges prize ship was sold on Wednesday, for 9300 dollars.

A letter from Bilboa, 22d March, 1800, says, "Don Nicholas Blasco Xrofco (or some name like it, for we cannot decypher the chyography) has just been named by his Catholic majesty, minister plenipotentiary to the United States."

Importance of Massachusetts.

The inland revenue paid to the United States, by Massachusetts, from the commencement of the present government to the close of the year 1799, amounted to 2,239,386 dollars; whereas Virginia, during the same period has paid only 548,744 dollars. Yet Virginia sends 21 members to congress; and Massachusetts but 14. *Is this making representation in taxation go hand in hand?*

June 30.

LATEST FROM EUROPE.

On Saturday last, the brig Holbrooke, of New-York, captain Sayer, arrived here from Greenock, in 47 days. The papers received by this arrival are to May 6, from which we have extracted the most material articles of intelligence, which are to be found under the foreign head. Since the receipt of these papers, we learn from captain Sayer, that he had on board, when he sailed, a Glasgow gazette of May 12, which contained an official account of the defeat of Massena's army, in Italy, in which between 7 and 8000 men were killed and taken prisoners. This paper was taken from captain Sayer by a privateer which boarded him off the Western Isles.

From Portsmouth, June 21.

Arrived here the ship Hantonia, captain Moulton, in 41 days from Liverpool.—When we heard this vessel was coming in, we anticipated *a flood of important foreign news!* Boarded her in the river, and were informed that not a single paper was brought, as the captain had been sick ten days previous to her departure, and could not obtain the late papers; neither were they in the way of hearing the news or reports of the hour. However we have received the following purport of a letter.

Extract of a letter from a gentleman in Liverpool, to a respectable merchant in this town, mentions,

"The campaign is just opened in Italy, where the French have been terribly beaten;—and general Massena and his army expected to be made prisoners.

"The season is very forward, and appearance of plentiful crops."

Latest European Advices,
Received here by the Holbrooke, captain Sayer, from Greenock.

SAVONA, April 9.

Field-marshal Ott is under the walls of Genoa, joined by brave insurgents of Fontano Buona, who are commanded by a French general, lately escaped from Genoa. The French are retreating to Finale, closely watched by general Elsnitz.

ROVEREDO, April 13.

General Elsnitz was to have attacked Vado on the 7th, but the enemy did not think it advisable to make a stand, having retreated from St. Steffano to Finale, leaving behind 17 pieces of cannon, several ships, and military effects. In the citadel of Savona, 350 of the enemy were made prisoners. General Melas is at Savona, general Elsnitz at Finale, general Ott at Guardo, and the British have begun to bombard Genoa from the sea.

The manœuvre of general Melas, by which he got in the rear of the French, and separated their force, is considered here as masterly.

NEW-LONDON, June 30.

Captain Baley, of the brig Eliza, from Norfolk, spoke off Hampton Roads, a brig from the West-Indies, which informed him that the United States ship of war Connecticut, had had an action with a French national ship of 20 guns; in which the former was successful and had sent the prize into St. Kitts. The Connecticut lost 20 men.

NEW-YORK, July 2.

AMERICAN NEGOTIATION.

An arrival at Boston, from Bilboa, brings a report that the negotiations with our commissioners at Paris, had been broken off in consequence of a correspondence said to have taken place between our envoys and Mr. Pitt. This news is not probable—France will gain much more from America, by *fair promises* than by such hostile conduct. She is convinced of this from experience. Witness the late captures.

Extract of a letter from Boston, to a house of the first respectability in this city, received yesterday, dated 17th ult.

"A vessel arrived last evening from Bilboa, brings an account that letters received there from Paris to the beginning of May, stated that the treaty with our commissioners had broken off at their second meeting. There was a clashing which ended in this. The reason given by the first consul was—*a correspondence with Mr. Pitt!*"

BALTIMORE, July 5.

Extract of a letter from John Morton, Esquire, American consul at Havanna, to the secretary of state, dated Havanna, 21st of May, 1800.

"It is with much concern I announce to you, Sir, that since my last, the yellow fever has commenced its ravages among our countrymen at this place. A number of seamen, and several persons, who resided on shore, have already fallen victims to that dreadful disease; and several are now under the hands of the physician.

Annapolis, July 10.

Mr. CHARLES CARROLL, jun. takes this opportunity of informing his friends and fellow-citizens of Anne-Arundel, that he shall remove his residence to Baltimore the ensuing fall, and is therefore under the necessity of requesting those, who meant to honour him with their confidence at the next election, to consider his name withdrawn from the list of candidates for the general assembly, as it will not be in his power to serve them with that punctuality, which a representative owes to his constituents.

AT a meeting, this day, of the trustees of St. John's College, they resolved to appoint, on the first day of September next, an assistant to the professor of English and grammar, who is to receive for his services at the rate of 400 dollars per annum, to be paid quarterly.

It is the duty of the said professor, and his assistant, to teach English grammatically, writing, arithmetic and other branches of the mathematics usually taught in English schools, and to carry young students of Latin through the grammar, the Vocabulary and Corderious.

A. C. HANSON.

Annapolis, June 23, 1800.

In CHANCERY, July 1, 1800.

ON application to the chancellor, by petition, in writing, of HENRY GASSAWAY, of Anne-Arundel county, praying the benefit of the act for the relief of sundry insolvent debtors, passed at the last session, on the terms therein mentioned, and a schedule of his property, and a list of his creditors, so far as he can ascertain the same, on oath, being annexed to his petition, and the said Henry Gassaway being known to the chancellor to be at this time, and to have been at the time of passing the said act, a citizen of this state, and of the United States, and the said Henry Gassaway, at the time of presenting his petition, having produced to the chancellor the assent in writing of so many of his creditors, as have due to them, according to the list aforesaid, the amount of two thirds of the debts due by him at the time of passing the said act; it is therefore adjudged and ordered, that the said Henry Gassaway, by causing a copy of this order to be inserted once in each of three successive weeks, in the Maryland Gazette, before the last day of the present month, give notice to his creditors to appear in the chancery office, at eleven o'clock, on the eighteenth day of August next, for the purpose of recommending some person to be trustee for their benefit, on the said Henry Gassaway's then and there taking the oath prescribed for delivering up his property.

Test. SAMUEL HARVEY HOWARD,
Reg. Cur. Can.

ALL persons having claims against the estate of JAMES GAITHER, late of Anne-Arundel county, deceased, are desired to bring them in, legally attested, and those indebted are requested to make immediate payment. w 4

PATIENCE GAITHER, Executrix.

July 8, 1800.

CAUTION.

I HEREBY forewarn all persons from taking an assignment of a bond from Mr. JAMES MATTISON to me, for fifty pounds, as the same is mislaid and paid, any person finding it will confer a favour by delivering it to Mr. Mattison.

RICHARD PARROTT.

Annapolis, June 28, 1800.

NOTICE is hereby given to all persons indebted to the estate of TALBOT SHIPLEY, deceased, to come and settle their accounts without delay, or they may depend on being dealt with as the law directs without respect to persons, and all those that have any claims against the said estate are requested to bring them in, legally authenticated, that they may be discharged, by

RACHEL SHIPLEY, Administratrix.

June 26, 1800.

TAKEN up as a stray, by the subscriber, living in Anne-Arundel county, near WILLIAM SPURRIER'S tavern, a bay MARE, supposed to be about ten or eleven years old, with a little white in her forehead, about 14½ hands high, has a large lump on her near side, supposed to be done by the poke of a cow, also a few white saddle spots on her back. The owner may have her again on proving property and paying charges.

BASIL SEVOY.

WE, the subscribers, having obtained from the orphans court of Anne-Arundel county, letters of administration on the estate of Mrs. ELIZABETH MACKUBIN, late of the city of Annapolis, deceased, do require all persons having claims against the said deceased to exhibit them, properly authenticated, for payment, and those who are indebted to the said estate are requested to make immediate payment to the subscribers.

JAMES MACKUBIN, } Executors.
RICHARD MACKUBIN, }

June 24, 1800.

LA FAYETTE

Is in high order, and will stand this season at the subscriber's, on Severn,

LA FAYETTE is a bright sorrel, handsomely marked with white in his face and legs, nine years old, full 15½ hands high; he is handsomely formed, and equal as to bone, sinew and action, to any horse bred in America. He was got by the imported horse Venetian, his dam by Little Figure, out of a fine imported mare. La Fayette will cover mares at five dollars, or two barrels of corn, each mare, and a quarter of a dollar to the groom, if paid by the first of November next, if not then paid seven dollars will be charged. Good pasturage at 3/9 per week, but will not be answerable for accidents or escapes.

AUGUSTINE GAMBRILL.

April 10, 1800.

GIDEON WHITE,

HAS JUST RECEIVED, FOR SALE,

From LEE's and Co. Patent and Family Medicine Store Baltimore,

A fresh supply of the following valuable medicines:

Dr. HAHN's GENUINE WATER.

A sovereign remedy for all diseases of the eyes, whether the effects of natural weakness or of accident, speedily removing inflammations, defluxions of rheum, dullness, itching, and films on the eyes, never failing to cure those maladies which frequently succeed the small-pox, measles, and fevers, and wonderfully strengthening a weak sight. Hundreds have experienced its excellent virtues, *when nearly deprived of sight.*

TOOTH-ACHE DROPS.

The only remedy yet discovered which gives immediate and lasting relief in the most severe instances.

THE ANODYNE ELIXIR,

For the cure of every kind of head-ache.

THE DAMASK LIP SALVE

Is recommended (particularly to the ladies) as an elegant and pleasant preparation for chopped and sore lips, and every blemish and inconvenience occasioned by colds, fevers, &c. speedily restoring a beautiful rosy colour and delicate softness to the lips.

The Restorative Powder FOR THE TEETH AND GUMS.

This excellent preparation comforts and strengthens the gums, preserves the enamel from decay, and cleanses and whitens the teeth, absorbing all that acrimonius slime and foulness, which suffered to accumulate, never fails to injure and finally ruin them.

Dr. HAMILTON's GRAND RESTORATIVE,

IS recommended as an invaluable medicine, for the speedy relief and permanent cure of the various complaints which result from dissipated pleasures—juvenile indiscretions—residence in climates unfavourable to the constitution—the immoderate use of tea, frequent intoxication, or any other destructive intemperance—the unskilful or excessive use of mercury—the diseases peculiar to females, at a certain period of life—bad layings in, &c. &c.

And is proved by long and extensive experience to be absolutely unparalled in the cure of—nervous disorders, consumptions, lowness of spirits, loss of appetite, impurity of the blood, hysterical affections, inward weaknesses, violent cramps in the stomach and back, indigestion, melancholy, gout in the stomach, pains in the limbs, relaxations, involuntary emissions, seminal weaknesses, obstinate gleets, fluor albus, (or whites) impotency, barrenness, &c. &c.

In cases of extremity where the long prevalence and obstinacy of disease has brought on a general impoverishment of the system, excessive debility of the whole frame, and a wasting of the flesh which no nourishment or cordial could repair, a perseverance in the use of this medicine has performed the most astonishing cures.

The grand restorative is prepared in pills as well as in a fluid form, which assists considerably in producing a gradual and lasting effect. Their virtues remain unimpaired for years in any climate.

Dr. HAMILTON's

Genuine Essence and Extract of Mustard.

FOR the cure of rheumatism, gout, rheumatic gout, palsy, lumbago, numbness, white-swellings, chilblains, sprains, bruises, acute and chronic rheumatism.

Many persons have been much disappointed by purchasing medicines under the name of Essence of Mustard, which are perfectly different from this remedy—the superior qualities of which Dr. Hamilton begs leave to prove by the following cures, selected from a numerous list.

From Mr. Charles Willet, Plasterer, Pratt-street, Baltimore.

Sir,

I SEND you the particulars of my cure by Hamilton's Essence and Extract of Mustard, that you may make it known for the benefit of others. About two months ago I strained my right knee so violently by a fall, that I was unable to walk without a crutch, I tried British oil, oppodeldoc and other medicines, but grew considerably worse, and the part became inflamed and swelled to a considerable degree, when I was recommended to the Essence of Mustard, and by using two bottles I was able to walk in less than a week, and am now as hearty as ever.

Dec. 30, 1799. Charles Willet.

Mr. Henry Reese, Butcher, Proprietor of No. 24, Centre market-house, Baltimore.

Sir,

ABOUT two months ago, your valuable medicine proved of singular service to me, I was not able to move from my room for upwards of a fortnight, with the rheumatism or rheumatic gout in my left foot and ancle, when Dr. Buchanan recommended the Essence of Mustard, as the only medicine to be depended on, and directed me where to procure it, and by using less than a quarter of a bottle and a few of the pills, I was able to ride to market next day, and have been perfectly free from my complaint ever since.

Jan. 4, 1800. Henry Reese.

Mrs. Mary M'Crae, wife of Mr. George M'Crae, grocer, Bond-street, Fell's Point, was perfectly cured (by persevering in the use of Hamilton's Essence and Extract of Mustard) of a rheumatic complaint of eleven years standing. The greatest part of last winter she was unable to dress or undress without assistance, she had the best medical advice both in Europe and America without effect.

Dr. HAMILTON's *celebrated* Worm Destroying Lozenges,

Which have relieved upwards of eighteen thousand persons of all ages, within nine months past, in various dangerous complaints, arising from worms, and from foulness or obstructions in the stomach and bowels—they are a remedy suited to every age and constitution, contain nothing but what is perfectly innocent, and are so mild in their operation that they cannot injure the most delicate pregnant lady, or the tenderest infant of a week old, should no worms exist in the body, but will, without pain or griping, cleanse the stomach and bowels of whatever is foul or offensive, and thereby prevent the production of worms and many fatal disorders.

The PERSIAN LOTION,

So celebrated amongst the fashionable throughout Europe,

As an invaluable cosmetic, perfectly innocent and safe, free from any corrosive and repellent minerals, (the basis of other lotions) and of unparalleled efficacy in preventing and removing cutaneous blemishes of the face and skin of every kind, particularly freckles, pimples, pits after the small-pox, inflammatory redness, scurfs, tetters, ringworms, sunburns, prickly heat, premature wrinkles, &c.

The Persian Lotion operates mildly, without impeding that natural, insensible perspiration which is essential to the health—Yet its salutary effects are speedy and permanent, rendering the skin delicately soft and smooth, improving the complexion and restoring the bloom of youth. Never failing to render an ordinary countenance beautiful, and an handsome one, more so.

HAHN's ANTI-BILIOUS PILLS,

Celebrated for

Evacuating superfluous bile, and preventing its morbid secretion—removing obstinate costiveness, and restoring lost appetite.

INFALLIBLE AGUE AND FFVER DROPS.

Thousands can testify of their being cured by these drops, after the bark and every other medicine has proved ineffectual; and not one in an hundred has had occasion to take more than one, and numbers not half a bottle.

Dr. Hahn's true and genuine GERMAN CORN PLASTER.

An infallible remedy for corns, speedily removing them root and branch, without giving pain.

CHURCH's GENUINE COUGH DROPS,

A sovereign, speedy and effectual remedy in

Head-aches,	Sore throats,
Catarrhs,	Wheezings,
Shortness of breath,	Congealed phlegm,
Ticklings in the throat,	Spitting of blood,
Tightness of the chest,	Soreness of the breast and
Hooping cough,	stomach, &c. &c.

Asthmas and consumptions.

And all disorders of the breasts and lungs.

SOVEREIGN OINTMENT FOR THE ITCH,

Warranted an infallible and immediate cure at once using.

Being the most speedy, effectual, and pleasant remedy ever offered to the public, and for the satisfaction of the timorous, the proprietor *maketh oath*, that this ointment doth not contain a single particle of mercury or any other pernicious ingredient in its composition, and may be used with the most perfect safety by pregnant women and on infants newly born.

PATENT INDIAN VEGETABLE SPECIFIC,

For the cure of

Venerial complaints of every description.

An extensive trial of near four years has proved the Vegetable Specific to be effectual in expelling the venerial virus, however deeply rooted in the constitution, and has restored health to many who have been brought to the grave, by the improper administration of mercury. Within this period upwards of four thousand patients have experienced its salutary effects.

With the medicine is given a description of the symptoms which obtain in every stage of the diseases with copious directions for their treatment, so as to accomplish a perfect cure in the shortest time, and with the least inconvenience possible.

Those who wish to purchase any of the above articles are cautioned against the imposition of inferior medicines, and to inquire for them only of *Mr. Gideon White.*

Wholesale purchasers allowed a liberal profit by addressing to Rd. Lee, and Co. Baltimore.

CHARLES FARIS,

Clock and Watch-Maker,

HAS received an assortment of warranted capped and jewelled and plain silver WATCHES, and a variety of other articles in his line, which he will sell at the most reduced prices.

N. B. Highest price given for old silver.

To the Voters of Anne-Arundel County.

I LONG ago determined to offer myself a candidate for the office of sheriff, at the ensuing election, in case district elections should be established; that just and convenient mode of election having at length prevailed, I am encouraged by my friends to persevere in the determination, and to solicit your suffrages. A long acquaintance with the duties of the office justifies me in saying, that if elected it shall be my constant endeavour and study to discharge the trust with diligence, impartiality, and fidelity.

NICHOLAS WATKINS, Elk-Ridge.

June 12, 1800.

Sixty Dollars Reward.

RAN away, on the 9th instant, from the subscriber, living in Prince George's county, a negro man named CHARLES, he is about 5 feet 4 or 5 inches high, is bow legged, has a full round face, and is rather of a light black or brown complexion. The above reward will be paid for securing this fellow in any gaol, so that he is recovered, and reasonable charges, if brought home.

June 10, 1800. OSBORN SPRIGG.

HENRY THOMPSON,

Cabinet and Chair-Maker, Francis-street, Annapolis,

HAVING commenced business in this city, respectfully informs his friends, and the public generally, that he has laid in a quantity of the best materials for carrying on the above business, and flatters himself, from the experience he has had in the different branches, to be able to execute his work in a neat, fashionable manner, with punctuality and dispatch, and hopes, by a steady application to business, to merit the patronage of a generous public.

N. B. Orders from the country will be thankfully received, and punctually attended to.

June 19, 1800.

THIS is to give notice, that the subscriber hath obtained from the orphans court of Charles county, in Maryland, letters of administration de bonis non, on the personal estate of JOSHUA STEWART, late of Charles county, deceased, all persons having claims against the said deceased are hereby warned to exhibit the same, with the vouchers thereof, to the subscriber, at or before the 14th day of January next, they may otherwise by law be excluded from all benefit of the said estate. Given under my hand, this 17th day of June, one thousand eight hundred.

HENRY STEWART, Admr. D. B. N.

Will be SOLD, to the HIGHEST BIDDER, on Friday the 1st day of August next,

THE subscriber's plantation, whereon he now dwelleth, within one mile and a half of Upper-Marlborough, sixteen of the Federal City, and sixteen to Alexandria, supposed to contain 345 acres; there are on the premises, a very convenient house, with all the necessary buildings, in good repair, a new and well enclosed yard and garden, with a variety of excellent fruit of almost every kind, two valuable meadows, and a sufficiency of timber and wood to support the land. A further description is thought unnecessary, as those who wish to purchase may first view the property. The terms of sale are, one third of the money, with interest, to be paid on the first day of December next, one third, with interest on the whole, on the first day of October, 1801, and the balance on the first day of October, 1802. Bonds, with good security, will be required. On the same day, and on the same terms as above, will be offered for sale, a lot containing 15 acres, more or less, on which is erected one of the best fixed distilleries probably in this state, with stills and every thing necessary to commence the business immediately.

w 9 COLMORE BEANS.

P. S. I will treat privately for the above property at any time before the day of Sale.

Prince-George's county, Maryland, May 27, 1800.

This is to give notice,

THAT the subscriber hath obtained from the orphans court of Baltimore county, in Maryland, letters testamentary on the personal estate of JOSHUA FRAZIER, late of Baltimore county, deceased, all persons having claims against the said deceased are hereby warned to exhibit the same, with the vouchers thereof, to the subscriber, on or before the first day of December next, they may otherwise by law be excluded from all benefit of the said estate. Given under my hand, this 31st day of May, 1800.

RICHARD FRAZIER, Executor.

To the Voters of Anne-Arundel County.

Fellow-Citizens,

BY the advice and recommendation of a number of respectable inhabitants of this county, I offer myself a candidate for your suffrages, as one of your representatives in the next general assembly; should I, through your favour, have the honour of being elected, you may depend that I will exert every ability I possess to promote the peace and prosperity of the state in general, and this county in particular.

And am, with great respect,

Your humble servant,

JOHN C. WEEMS.

ANNAPOLIS:
Printed by Frederick and Samuel Green.